



Reprinted
February 5, 2002

HOUSE BILL No. 1265

DIGEST OF HB 1265 (Updated February 4, 2002 6:22 PM - DI 107)

Citations Affected: IC 5-2; IC 35-38; noncode.

Synopsis: Criminal records of juveniles. Provides for the sealing of criminal history data, concerning an act committed by a person before the person became 18 years of age, ten years after the person was last adjudicated a delinquent child. Provides that this provision does not apply to a person who: (1) is convicted of a sex offense, a crime of violence, arson as a class D felony, cruelty to animals as a Class D felony, multiple OWI offenses, causing serious bodily injury when operating a motor vehicle, or dealing narcotics; (2) is serving a sentence for a felony conviction at age 22; (3) is arrested for a felony after the person becomes 18 years of age; or (4) has been convicted of a felony within ten years of the person being adjudicated a delinquent child.

Effective: July 1, 2002.

Smith V, Dillon

January 14, 2002, read first time and referred to Committee on Courts and Criminal Code.
January 24, 2002, reassigned to Committee on Human Affairs.
January 31, 2002, amended, reported — Do Pass.
February 4, 2002, read second time, amended, ordered engrossed.

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HB 1265—LS 6041/DI 105+



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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1265

A BILL FOR AN ACT to amend the Indiana Code concerning criminal and juvenile law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-2-5-16 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2002]: **Sec. 16. (a) This section does not apply to the following**
4 **persons:**

5 **(1) A sex and violent offender (as defined in IC 5-2-12-4)**
6 **subject to sex offender registration.**

7 **(2) A person convicted of murder under IC 35-42-1-1.**

8 **(3) A person who is serving a sentence for a felony conviction**
9 **ten (10) years after the person was last adjudicated a**
10 **delinquent child.**

11 **(4) A person convicted of a crime of violence (as defined in**
12 **IC 35-50-1-2).**

13 **(5) A person convicted of cruelty to animals as a Class D**
14 **felony under IC 35-46-3-12.**

15 **(6) A person convicted of arson under IC 35-43-1-1.**

16 **(7) A person convicted of multiple operating a vehicle while**
17 **intoxicated offenses under IC 9-30-5-3.**

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(8) A person convicted of causing serious bodily injury when operating a motor vehicle under IC 9-30-5-4.

(9) A person convicted of an attempt or a conspiracy to commit a crime listed in subdivisions (1) through (8).

(10) A person convicted of dealing in cocaine, a narcotic drug, or methamphetamine under IC 35-48-4-1.

(11) A person convicted of dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.

(12) A person convicted of dealing in a schedule IV controlled substance under IC 35-48-4-3.

(13) A person convicted of dealing in a schedule V controlled substance under IC 35-48-4-4.

(b) Subject to this section, if:

(1) the department, a criminal justice agency, or a juvenile justice agency possesses criminal history information relating to an act that a person committed or allegedly committed before the person became eighteen (18) years of age;

(2) the:

(A) department; or

(B) criminal justice agency, after checking with the department;

does not find that the person was convicted of a felony that the person committed after the person became eighteen (18) years of age; and

(3) the person has not been convicted of a felony during the ten years since the person was last adjudicated a delinquent child;

the department, criminal justice agency, or juvenile justice agency shall seal the person's criminal history data ten (10) years after the person was last adjudicated a delinquent child.

(c) Except as provided under subsection (d), the department, criminal justice agency, or juvenile justice agency may not release sealed criminal history data to, or allow inspection of sealed criminal history data by, any agency or person other than the person who is the subject of the criminal history data.

(d) A court may order the release or inspection of sealed criminal history data only if:

(1) the person who is the subject of the sealed criminal history data challenges its existence during a court proceeding; or

(2) the person who is the subject of the sealed criminal history is arrested in the United States, in Indiana, in another state, or in another country for an act that:



- 1 (A) the person committed after the person became eighteen
 2 (18) years of age; and
 3 (B) is a felony in Indiana or the equivalent of a felony in
 4 Indiana.

5 Criminal history data ordered released under subdivision (1) is
 6 unsealed only to the extent reasonably necessary to refute the claim
 7 under subdivision (1) that the sealed criminal history data does not
 8 exist. Criminal history data ordered released under subdivision (2)
 9 may be released or inspected as if the criminal history data had
 10 never been sealed.

11 SECTION 2. IC 35-38-4-7 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2002]: Sec. 7. (a) This section does not apply to the following:

- 14 (1) A sex and violent offender (as defined in IC 5-2-12-4)
 15 subject to sex offender registration.
 16 (2) A person convicted of murder.
 17 (3) A person who is in a penal facility ten (10) years after the
 18 person was last adjudicated a delinquent child.

19 (b) Subject to this section, if a court:

- 20 (1) possesses criminal history data (as defined in IC 5-2-5-1)
 21 or other records relating to a criminal act that a person
 22 committed or allegedly committed before the person became
 23 eighteen (18) years of age;
 24 (2) after checking with the state police department, does not
 25 find that the person was arrested for a felony that the person
 26 committed or allegedly committed after the person became
 27 eighteen (18) years of age; and
 28 (3) finds that the person has not been convicted of a felony
 29 during the ten(10) years since the person was last adjudicated
 30 a delinquent child;

31 the court shall seal the person's criminal history data (as defined
 32 in IC 5-2-5-1) or other related court records ten (10) years after the
 33 person was last adjudicated a delinquent child.

34 (c) Except as provided in subsection (d), the court may not
 35 release sealed criminal history data (as defined in IC 5-2-5-1) or
 36 related court records to, or allow inspection of sealed criminal
 37 history data (as defined in IC 5-2-5-1) or related court records by,
 38 any agency or person other than the person who is the subject of
 39 the criminal history data (as defined in IC 5-2-5-1) or related court
 40 records.

41 (d) A court may order the release or inspection of sealed
 42 criminal history data (as defined in IC 5-2-5-1) or related court



records only if:

(1) the person who is the subject of the sealed criminal history data challenges its existence during a court proceeding; or

(2) the person who is the subject of the sealed criminal history is arrested in the United States, in Indiana, in another state, or in another country for an act that:

(A) the person committed after the person became eighteen (18) years of age; and

(B) is a felony in Indiana or the equivalent of a felony in Indiana.

Criminal history data ordered released under subdivision (1) is unsealed only to the extent reasonably necessary to refute the claim under subdivision (1) that the sealed criminal history data does not exist. Criminal history data ordered released under subdivision (2) may be released or inspected as if the criminal history data had never been sealed.

SECTION 3. [EFFECTIVE JULY 1, 2002] IC 5-2-5-16 and IC 35-38-4-7, both as added by this act, apply only to a person who:

(1) was last adjudicated a delinquent child after June 30, 1992; or

(2) was last adjudicated a delinquent child before July 1, 1992, and petitions a court, the state police department, a juvenile justice agency, or a criminal justice agency that possesses criminal justice information to seal the person's criminal history information after June 30, 2002.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1265, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 8, delete "when the person is" and insert **"ten (10) years after the person was last adjudicated a delinquent child."**

Page 1, delete line 9.

Page 1, line 14, delete "and".

Page 2, line 4, after ";" insert **"and**

(3) the person has not been convicted of a felony during the ten years since the person was last adjudicated a delinquent child;".

Page 2, line 6, delete "when the person" and insert **"ten (10) years after the person was last adjudicated a delinquent child."**

Page 2, delete line 7.

Page 2, line 18, delete "by" and insert **"in"**.

Page 2, line 36, delete "when the person is" and insert **"ten (10) years after the person was last adjudicated a delinquent child."**

Page 2, delete line 37.

Page 2, line 42, delete "and".

Page 3, line 4, after ";" insert **"and**

(3) finds that the person has not been convicted of a felony during the ten(10) years since the person was last adjudicated a delinquent child;".

Page 3, line 6, delete "when the person" and insert **"ten (10) years after the person was last adjudicated a delinquent child."**

Page 3, delete line 7.

Page 3, line 21, delete "by" and insert **"in"**.

Page 3, line 35, delete "becomes twenty-two (22) years of age after June 30, 2002;" and insert **"was last adjudicated a delinquent child after June 30, 1992;"**.

Page 3, line 37, delete "became twenty-two (22) years of age before July 1, 2002," and insert **"was last adjudicated a delinquent child before July 1, 1992,"**.

and when so amended that said bill do pass.

(Reference is to HB 1265 as introduced.)

SUMMERS, Chair

Committee Vote: yeas 12, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1265 be amended to read as follows:

Page 1, line 7, after "murder" insert **"under IC 35-42-1-1"**.

Page 1, line 8, delete "in a penal facility " and insert **"serving a sentence for a felony conviction"**.

Page 1, between lines 9 and 10, begin a new line block indented and insert:

"(4) A person convicted of a crime of violence (as defined in IC 35-50-1-2).

(5) A person convicted of cruelty to animals as a Class D felony under IC 35-46-3-12.

(6) A person convicted of arson under IC 35-43-1-1.

(7) A person convicted of multiple operating a vehicle while intoxicated offenses under IC 9-30-5-3.

(8) A person convicted of causing serious bodily injury when operating a motor vehicle under IC 9-30-5-4.

(9) A person convicted of an attempt or a conspiracy to commit a crime listed in subdivisions (1) through (8)."

Page 2, line 2, delete "arrested for" and insert **"convicted of"**.

(Reference is to HB 1265 as printed February 1, 2002.)

SMITH V

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1265 be amended to read as follows:

Page 1, between lines 9 and 10, begin a new line block indented and insert:

"(4) A person convicted of dealing in cocaine, a narcotic drug, or methamphetamine under IC 35-48-4-1.

(5) A person convicted of dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.

(6) A person convicted of dealing in a schedule IV controlled substance under IC 35-48-4-3.

(7) A person convicted of dealing in a schedule V controlled substance under IC 35-48-4-4."

(Reference is to HB 1265 as printed February 1, 2002.)

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